

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION

CHRISTOPHER LUKE

PLAINTIFF

VS.

CIVIL ACTION NO. 3:14-cv-240-DPJ-FKB

NESHOPA COUNTY, MISSISSIPPI, ET AL.

DEFENDANTS

**DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

COME NOW Defendants Tommy Waddell, Jimmy Reid, Nick Walker, Harvey Hickman, Billy Guess, Angel Crockett, Josh Burt, and Ken Spears, individually and in their official capacities, and Neshoba County, Mississippi, by and through counsel, pursuant to Rule 56 of the Federal Rules of Civil Procedure, and files this their Motion for Summary Judgment, as follows:

1. Plaintiff filed this civil action against Neshoba County, Mississippi, and certain law enforcement personnel under 42 U.S.C. Section 1983 and the Mississippi Tort Claims Act regarding an incident occurring on May 28, 2013 at the Neshoba County Jail in Philadelphia, Mississippi. Specifically, Plaintiff claims Defendants failed to protect him from being assaulted by another inmate, used excessive force against him, failed to provide him with adequate medical treatment, and deprived him of equal protection, in violation of his constitutional rights. Plaintiff further asserts state law claims under the Mississippi Tort Claims Act.

2. Defendants submit to the Court that pursuant to Rule 56 of the Federal Rules of Civil Procedure, the Complaint filed by the Plaintiff and the record before the Court do not create any genuine issues of material fact sufficient to preclude the entry of summary judgment in favor of these Defendants as a matter of law.

3. Defendants Tommy Waddell, Jimmy Reid, Nick Walker, Harvey Hickman, Billy Guess, Angel Crockett, Josh Burt, and Ken Spears are each entitled to qualified immunity as to

Plaintiff's constitutional claims against them individually under Section 1983. Further, Plaintiff has failed to establish a prima facie case under Section 1983 against Neshoba County, Mississippi.

4. Plaintiff's state law claims against these Defendants also are barred by the immunities set forth by the MTCA, MISS. CODE ANN. § 11-46-1, *et seq.*

5. In support of their Motion for Summary Judgment, Defendants rely on their separate Memorandum of Authorities, as well as the following exhibits attached hereto:

- "A" Incident Reports;
- "B" Surveillance Video (Filed Conventionally);
- "C" Deposition of Christopher Luke;
- "D" Deposition of Angel Crockett;
- "E" Deposition of Harvey Hickman;
- "F" Deposition of Nicholas Walker;
- "G" Deposition of Billy Guess;
- "H" Deposition of Jimmy Reid;
- "I" Deposition of Sonya Rainey;
- "J" Deposition of Josh Burt;
- "K" Deposition of Tommy Waddell;
- "L" Deposition of Ken Spears;
- "M" Excerpts of Deposition of Dr. Mickey Wallace;
- "N" Neshoba County Law Enforcement Center Policies;
- "O" Officer Training Records; and
- "P" Excerpts of Plaintiff's Medical Records.

WHEREFORE, PREMISES CONSIDERED, Defendants Tommy Waddell, Jimmy Reid,

Nick Walker, Harvey Hickman, Billy Guess, Angel Crockett, Josh Burt, Ken Spears, and Neshoba County, Mississippi respectfully request the Court to grant their Motion for Summary Judgment and to dismiss each of Plaintiff's claims against them with prejudice as a matter of law.

Respectfully submitted, this 26<sup>th</sup> day of May, 2015.

TOMMY WADDELL, JIMMY REID, NICK  
WALKER, HARVEY HICKMAN, BILLY GUESS,  
ANGEL CROCKETT, JOSH BURT, KEN SPEARS,  
AND NESHOBAL COUNTY, MISSISSIPPI

BY: /s/ Steven J. Griffin  
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#### **CERTIFICATE OF SERVICE**

I hereby certify that on May 26, 2015, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which sent notification of such filing to the following:

Robert O. Waller, Esq.  
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*Attorney for Plaintiff*

/s/ Steven J. Griffin